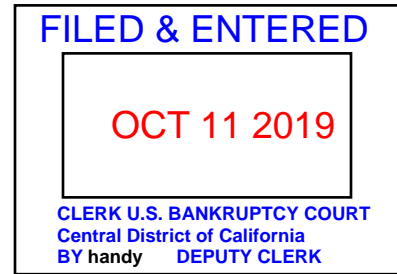


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11
12 UNITED STATES BANKRUPTCY COURT
13 FOR THE CENTRAL DISTRICT OF CALIFORNIA
14 NORTHERN DIVISION
15

16 In re

17 HVI CAT CANYON, INC.,

18 Debtor and
19 Debtor in Possession.

Case No. 9:19-bk-11573-mb

Chapter 11

**ORDER APPROVING SETTLEMENT OF
PACIFIC GAS AND ELECTRIC
COMPANY'S OBJECTION TO
DEBTOR'S UTILITY MOTION**

20 Date: October 3, 2019
21 Time: 10 a.m.
22 Ctrm: Courtroom 201
23 U.S. Bankruptcy Court
1415 State Street
Santa Barbara, CA 93101
24 Judge: Hon. Martin R. Barash

25 Upon the motion of HVI Cat Canyon, Inc. ("Debtor"), Debtor and Debtor-in-Possession,
26 filed on July 30, 2019, for entry of an order pursuant to 11 U.S.C. §§ 105(a) and 366 Requesting
27 Entry of an Order (I) Approving Debtor's Proposed Form of Adequate Assurance of Payment to

1 Utility Providers and, (II) Prohibiting Utility Providers From Altering, Refusing, or
2 Discontinuing Utility Service [ECF Doc. No. 13], and Amendments to Relief Requested in
3 Debtor's Motion for Entry of Order Pursuant to 11 U.S.C. §§ 105(a) and 366 (ECF Doc. 13)
4 [ECF Doc. No. 72] (ECF Doc. Nos. 13 and 72 are collectively referred to as the "Utility
5 Motion"); the Stipulation Regarding Adjournment of Hearing on Utility Motion and Order, dated
6 August 20, 2019 [ECF Doc. No. 58]; the Objection filed by Pacific Gas and Electric Company
7 ("PG&E") to the Utility Motion [ECF Doc. No. 125] ("PG&E Objection"); the Declaration of
8 Ernesto Olivares in Lieu of Affidavit in Support of Utility Motion, As Amended, and in Reply to
9 Objection filed by PG&E [ECF Doc. No. 298] filed by the Debtor ("Debtor's Declaration in
10 Support of Utility Motion and in Reply to PG&E Objection"); and the Declaration of Cassaundra
11 Gardner in Support of Objection of PG&E to Debtor's Utility Motion filed by PG&E [ECF Doc.
12 No. 334] ("PG&E's Declaration in Support of PG&E Objection"); and the Affidavits/Certificates
13 of Service with respect to the foregoing having been duly filed with the Court; and upon the
14 record of the hearing held on October 3, 2019 with respect to the Utility Motion, the PG&E
15 Objection, Debtor's Declaration in Support of Utility Motion and in Reply to PG&E Objection,
16 and PG&E's Declaration in Support of PG&E Objection, during which Debtor and PG&E, by
17 their respective counsel, having read into the record at the hearing terms of a settlement reached
18 by the parties.

19 PG&E and Debtor have agreed to the following settlement terms:

20 (i) Debtor will pay to PG&E, and PG&E will accept as satisfactory adequate
21 assurance of future performance, a cash deposit in the total amount of \$170,000 ("Adequate
22 Assurance").

23 (ii) Debtor will pay to PG&E the Adequate Assurance in installments as follows: (a)
24 \$85,000 to be received not later than October 11, 2019; (b) \$28,333.33 to be received not later
25 than November 11, 2019; (c) \$28,333.33 to be received not later than December 11, 2019; and
26 (d) \$28,333.34 to be received not later than January 11, 2020.
27

1 (iii) If Debtor does not pay in full the amount of the Adequate Assurance installment
2 due on any of the dates set forth in Item (ii) above (“Payment Default”) , PG&E will provide
3 notice of such Payment Default by regular mail and email to Debtor, Attn: Ernesto Olivares or
4 such other person as may be subsequently designated, and by email to (a) Pachulski Stang Ziehl
5 & Jones LLP, counsel for the Official Committee of Unsecured Creditors, Attn.: Jeffrey N.
6 Pomerantz, Esq., (b) O’Melveny & Myers, LLP, counsel for secured creditor UBS AG, London
7 Branch, Attn.: Evan M. Jones, Esq., (c) the Office of the United States Trustee, Attn.: Brian D.
8 Fittipaldi, Esq., and (d) any bankruptcy trustee that the Court may appoint in this case
9 (collectively, the “Notice Parties”). In the event Debtor does not cure the Payment Default
10 within five days of the due date of such payment, PG&E may immediately exercise its right to
11 terminate services to the Debtor.

12 (iv) Debtor shall pay, in the ordinary course, monthly payments on account of Energy
13 Statements issued by PG&E for electric services so that payment is received by the due date
14 shown on each statement. In the event Debtor fails to pay timely its monthly bills to PG&E,
15 PG&E will employ its standard collections process. Should Debtor’s electricity service be
16 subject to termination for nonpayment or any other violation of the terms of service between
17 Debtor and PG&E, PG&E shall provide notice of default (the “Notice”) on Debtor and each of
18 the Notice Parties in accordance with Paragraph (iii) above, providing Debtor with notice of
19 termination absent cure of Debtor’s default. Such Notice shall not be provided less than five
20 days prior to termination. If the Debtor does not cure its default, PG&E may immediately
21 exercise its right to terminate services to the Debtor.

22 (v) The Debtor reserves its rights to review the last twelve months of bills issued by
23 PG&E for billing discrepancies, and PG&E reserves its rights to dispute any such alleged
24 discrepancy. The Debtor may assert any prepetition billing errors by objecting to any proof of
25 claim filed by PG&E in the Debtor’s bankruptcy case, and PG&E shall have an opportunity to
26 respond to such objection. Any postpetition billing dispute that may arise between the Debtor
27 and PG&E shall be submitted to PG&E for further review and resolution.

1 After due deliberation and sufficient cause having been shown that the proposed
2 settlement is appropriate under the circumstances and applicable law; it is

3 **ORDERED** that the settlement of the Utility Motion is approved as set forth herein.

4 ###

23 Date: October 11, 2019

22 

24 Martin R Barash
25 United States Bankruptcy Judge
26
27

1 APPROVED AS TO FORM:

2 FRIEDMAN & SPRINGWATER LLP

3 *Counsel for Pacific Gas and Electric Company*

4
5 By: /s/ Jeannie Kim

6 Ellen A. Friedman

7 Jeannie Kim

8 NO OBJECTION TO THE FOREGOING:

9 PACHULSKI STANG ZIEHL & JONES LLP

10 *[Proposed] Counsel for Official Unsecured Creditors Committee*

11 By: /s/ Maxim B. Litvak

12 Jeffrey N. Pomerantz

13 Maxim B. Litvak

14 O'MELVENY & MYERS, LLP

15 *Counsel for UBS AG, London Branch*

16 By: /s/ Evan M. Jones

17 Evan M. Jones

18 Gary Svirsky